IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

OP.No. 25941 of 2002(L)

PETITIONER:

THE SECRETARY, KERALA ESTATES STAFF
ORGANISATION, WAYNAD DISTRICT COMMITTEE,
B.M.S. OFFICE, KALPETTA, WAYANAD.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:

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1. THE INDUSTRIAL TRIBUNAL,
KOZHIKODE.

2. M.A.AJITH PRASAD JAIN,
MANIYANKODE BUNGLOW, MANIYANKODE ESTATE,
KALPETTA NORTH,
WAYNAD.

BY ADV. SRI.U.K.RAMAKRISHNAN
SRI.E.K.MADHAVAN
SRI.P.V.LOHITHAKSHAN
SRI.SANDEEP.E.
SMT.P.VIJAYAMMA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.25941/02

ORDER ON C.M.P.NO.44141/02 IN O.P.NO.25941OF 2002

DISMISSED

12.03.2007. SD/- S.SIRI JAGAN, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE AWARD AND DATED 16.5.2001 IN I.D.NO.49/99 PASSED BY THE 1ST RESPONDENT PUBLISHED IN KERALA GAZATTE NO.5 DATED 29.1.2002.

/TRUE COPY/

PA TO JUDGE.

S.SIRI JAGAN,J.

O.P.NO.25941 OF 2002

JUDGMENT

12.03.07

S. SIRI JAGAN, J.

O.P.NO.25941 OF 2002

DATED THIS THE 12th DAY OF MARCH, 2007

JUDGMENT

The Union in I.D.No.44/99 before the Industrial Tribunal, Kozhikode challenges Ext.P1 award passed by the Industrial Tribunal in that I.D. Issue referred for adjudication was this:

> "Whether the Denial of Bonus to Sri. P.K. Sreenivasan, Office Staff for the year 1997-98, Maniyankode Estate, Kalpetta North is justifiable or not?"

2. On consideration of the evidence adduced before it, the Tribunal came to the finding that the Union could not conclusively prove that the workman in question was an employee of the estate and therefore his claim for bonus for 1996-97 is not bonafide and genuine. On that ground the Tribunal denied any relief to the workman. So the only question that arise before me that consideration is as to whether the finding of the Industrial Tribunal that the workman in question was not a workman of the estate is correct or not. That question is purely a question of fact. The Tribunal has in Ext.P1 award, discussed the evidence before it in graphic detail and has come

to the conclusion that the workman was not a workman employed in the estate. I do not find any perversity whatsoever in such findings. Moreover, the learned counsel for the management points out that pursuant to Ext.W3 proceedings produced by the Union before the tribunal, the Inspector of Plantations, Kalpetta also came to the same conclusion that the workman was not a workman of the management estate.

In the above circumstances, I do not find any merit in the original petition and accordingly the same is dismissed.

S. SIRI JAGAN, JUDGE

Acd